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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/092,030

03/06/2002

Peyton W. Hall

TRIA:005

7597

7590

05/01/2006

O'KEEFE, EGAN & PETERMAN, L.L.P.

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EXAMINER

PATEL, NIHIR B

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/092,030	Applicant(s) HALL ET AL.	
	Examiner Nihir Patel	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02.23.2006.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-28 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on February 8<sup>th</sup>, 2006 with respect to claim 1 have been fully considered and are persuasive. The previous office action has been withdrawn.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-5, 7-13, 15-20, 22, 23 and 25- 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forsman et al. (US 2002/0014498) in view of D'Alessio et al. (US 2003/0039781) and further in view of Bourget (US 3,187,965).

5. As to claims 1-5, 7, 16-20, 22, 23 and 25-28, Forsman discloses the applicant's invention as claimed with the exception of providing a bladder that comprises an outer layer of fluorinated rubber composite and a spout that comprises an output port. D'Alessio discloses a bladder (in a broad sense a bladder can be defined as a container) that comprises an outer layer of

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fluorinated rubber composite (see **page 14 paragraphs [0147] to [0151]**). Bouget discloses an apparatus that does provide a spout that comprises an output port **36 (see figures 1 and 2)**.

Therefore it would have been obvious to modify Forsman's invention by providing a bladder (container) that comprises an outer layer of fluorinated rubber composite as taught by D'Alessio and a spout that comprises an output port as taught by Bouget in order to increase the shelf-life and to prevent the fluid within the bladder from getting contaminated.

6. **As to claims 8-13, 15, 16 and 27**, Forsman discloses the applicant's invention as claimed with the exception of connecting a first end of a tube to an output port of the spout. Bourget discloses an apparatus that does connect a first end of a tube to an output port of the spout. Therefore it would have been obvious to modify Forsman's invention by connecting a first end of the tube to an output port of the spout as taught by Bourget in order to make it easier to dispense liquid.

7. **As to claims 6, 14 and 21**, Forsman discloses the applicant's invention as claimed with the exception of providing a tube that is made of flexible plastic. After taking a closer look at the applicant's specification, the examiner found that the applicant has not established any criticality or improve the invention by providing a tube that is formed of flexible plastic. Therefore it would have been obvious to one in the ordinary skill of the art to make the tube out of plastic or any other flexible material such as rubber as long as it is able to perform the same function. Therefore the material used to form the tube is considered a matter of design choice.

8. Claim **24** is rejected under 35 U.S.C. 103(a) as being unpatentable over Forsman et al. (US 2002/0014498) in view of Waage (US 3,642,047).

9. **As to claim 24**, Forsman discloses the applicant's invention as claimed with the exception of providing an inner bladder layer that comprised of thermoplastic polyurethane. It is well known in the art to have the inner bladder layer formed from thermoplastic polyurethane as taught by Waage (see **column 2 lines 31-45**).

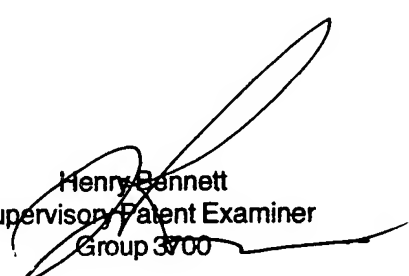
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nihir Patel  
Art Unit 3743

  
Henry Bennett  
Supervisor Patent Examiner  
Group 3700

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